

Remarks

In the official action, the Examiner starts off by objecting to Figures 1 and 3 as allegedly being inconsistent. As the Examiner will note by reference to the enclosures, a new Figure 3 is enclosed herewith in which elements 411, 412, 420 and 430 are now enclosed in a dashed-line box labeled with the numeral 400. Also, component 1121 has been omitted to comport with the disclosure of Figure 1. It is believed that with these amendments the Examiner's objections to the drawings have been overcome.

The Examiner also objected to the drawings in paragraph 2 of the official action. The Examiner's assertion seemed to imply that there are elements in the claims that are not supported by the drawings. With all due respect to the Examiner, it is believed that the Examiner is mistaken.

First, with respect to the previously recited "call switching unit", it is submitted that that heretofore claimed element is more than adequately supported by element 110 shown, for example, in Figures 1 and 3. As the Examiner will note by reference to the claims amendments, the terminology to which the Examiner objects has been changed to simply "switch" since that terminology is at least as broad, if not broader than "call switching unit" and, moreover, comports with the language used in the specification (see, for example, page 8, line 27). Regarding the term "processing means", that clearly relates to the user telephony agents 111 running on switch 110. As such, it is submitted that there is adequate support in the specification and in the drawings for that particular terminology used in the claims.

With respect to the claimed "private data channel", that language is supported by VPN link 600 shown in Figures 1 and 3. Additionally, the last whole paragraph on page 8 of the specification as filed has been amended to indicate that the term "link" is synonymous with "data channel" as used in the specification.

With the entry of this amendment, it is submitted that the Examiner's objections set forth in paragraph 2 of the official action have been adequately addressed.

In part 3 of the official action, the Examiner objects to a minor editorial error noted on page 14, line 4 of the specification. As the Examiner will note by reference to the amendments made above, this issue has been addressed.

The Examiner rejects claims 1, 11-10, 16 and 23-25 under 35 U.S.C. 112, first paragraph. This grounds for rejection is respectfully traversed.

First, it is noted, with all due respect to the Examiner, that it is not clear exactly which claims the Examiner is referring to. Note the reference to claims 11-10.

Second, it is submitted that the rejection is not warranted. While the meaning of every term used in the claims should be apparent from the descriptive portion of the specification, there is no requirement that there be exact commonality of language. For example, it is submitted that a person of ordinary skill in the art would readily associate the originally claimed "call switching unit" or the originally claimed "hosted call switching unit" with the switch 110 disclosed in the specification. If that is the case, and the Applicant submits it is the case, then the Examiner's rejection directed to the "call switching unit" and "hosted call switching unit" as used in the claims is inappropriate and should be withdrawn.

In a similar vein, it is submitted that to a person of ordinary skill in the art the reference to the claimed "private data channel", "private channel", "private secure data channel", as originally used in the claims is more than adequate supported by the reference to the VPN link 600 disclosed in the application. Can the Examiner honestly assert that a VPN is not an embodiment of a private data channel?

With respect to the objection to the term "processing means", does the Examiner believe that a hosted switch 110 would not have a processing means? Obviously, the hosted switch 110 disclosed in the present application is not a crossbar switch from the 1950's, but rather a modern switch that could be used in connection with signalling system 7 or voice over IP trunks, for example. See the discussion in the first whole paragraph at the top of page 8 of the specification as filed. It is submitted that the

hosted switch disclosed in the specification and shown in the drawings is adequate support for the term "processing means" found in the claims.

The Examiner also rejects claims 1, 5, 16 and 23-25 under 35 U.S.C. 112, second paragraph, as allegedly being unclear.

8 With respect to claim 1, the Examiner asserts that the use of the phrase "can communicate" is indefinite. While claim 1 has been amended to change "can communicate" to --is operable to communicate--, it is believed that the meaning is substantially the same. Moreover, it is noted that the phrase "can communicate" frequently appears in issued US patents. The most recent patent in which that term appears is US Patent No. 6,748,241, issued June 8, 2004. Enclosed herewith is the first few pages of the text-based version of that patent as found on the USPTO web site, together with the first page of a search for usage of the phrase "can communicate" in claims. If the terminology is clear in over 800 issued US patents, why all of a sudden is the terminology now unclear in this application? It is noted that the Examiner merely asserts that the terminology is unclear without giving any particular rationale as to why that is allegedly the case.

While the Applicant has amended claim 1 to delete the usage of the word "can" in front of the word "communicate", the Examiner will note that the Applicant has not amended the other rejected claims, namely claims 16 and 23-25, similarly, since it is not believed that the terminology is in any way unclear or indefinite.

With respect to the Examiner's observation regarding the inconsistent use of the terms "private data channel", "private secure data channel", and "private channel", in various claims, the Examiner will note that the Applicant has attempted to amend the claims to consistently use "private data channel" and, as such, it is believed that this grounds for rejection has now been overcome.

It is noted that the claims have not been amended on prior art grounds and, moreover, the Applicant asserts that none of the claims have been narrowed in any way by these

amendments in order to differentiate them from the prior art.

Reconsideration of this application as amended is respectfully requested.

The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 12-0415. In particular, if this response is not timely filed, then the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136 (a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 12-0415.

I hereby certify that this correspondence is being deposited with the United States Post Office with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents

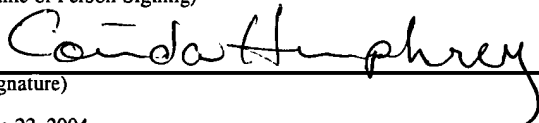
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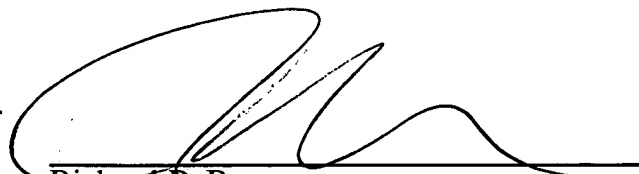


(Signature)

June 22, 2004

(Date)

Respectfully submitted,



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Enclosures: Patent claim search

US Patent No. 6,748,241

Replacement Drawing Sheet